

EXHIBIT 10A

CONFIDENTIAL

[Page 1]

** CONFIDENTIAL **

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
NO. 10-CV-069050 (JMF) (JCF)

- - - - -x

H. CHRISTINA CHEN-OSTER; LISA PARISI
and SHANNA ORLICH,

Plaintiffs,

-against-

GOLDMAN, SACHS & CO. and
THE GOLDMAN SACHS GROUP, INC.,
Defendants.

- - - - -x

DEPOSITION OF DAVID LANDMAN

New York, New York

Thursday, October 10, 2013

Reported by:

JEFFREY BENZ, CRR, RMR

JOB NO. 112175

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2		2	A P P E A R A N C E S: (Ctd.)
3		3	
4		4	PAUL HASTINGS LLP
5	October 10, 2013	5	Attorneys for Defendants
6	9:53 a.m.	6	75 East 55th Street
7		7	New York, New York 10002
8		8	BY: BARBARA BERISH BROWN, ESQ.
9	Deposition of DAVID LANDMAN, pursuant to	9	barbarabrown@paulhastings.com
10	30(b)(6) Notice, held at the offices of Outten &	10	-and-
11	Golden LLP, 3 Park Avenue, New York, New York,	11	CARSON H. SULLIVAN, ESQ.
12	before Jeffrey Benz, a Certified Realtime	12	carsonsullivan@paulhastings.com
13	Reporter, Registered Merit Reporter and Notary	13	202.551.1717
14	Public of the State of New York.	14	
15		15	ALSO PRESENT:
16		16	REGINA S. PALUMBO, ESQ., Goldman Sachs
17		17	
18		18	
19		19	
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1		1	REDACTED FILED UNDER SEAL
2	A P P E A R A N C E S:	2	
3		3	
4	OUTTEN & GOLDEN LLP	4	
5	Attorneys for Plaintiffs	5	
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8	BY: ADAM T. KLEIN, ESQ.	8	
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24		24	
25		25	
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[2] (Pages 2 to 5)

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1 Landman - Confidential
 2 A. Yes.
 3 Q. Can you generally describe what that
 4 means?
 5 MS. BROWN: Object. Overbroad.
 6 You can answer.
 7 A. Generally speaking, a manager
 8 performance quartile is an assessment that
 9 managers complete on their employees.
 10 Q. And when did Goldman Sachs start to
 11 use a quartiling management system?
 12 A. To the extent of my knowledge, Goldman
 13 Sachs has been conducting manager performance
 14 quartiling since the beginning of this lawsuit,
 15 2003.
 16 Q. Are you aware of why Goldman Sachs
 17 implemented a quartiling process for manager
 18 performance assessments?
 19 A. I'm not familiar with the history of
 20 when it actually was implemented.
 21 Q. Do you know who would know that?
 22 A. I don't.
 23 Q. Do you know whether in 2002 Goldman
 24 Sachs used some kind of quartiling process to
 25 assess employee performance?

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[Page 7]

1 Landman - Confidential
 2 A. I don't know if manager performance
 3 quartiling was done in 2002.
 4 Q. Is there someone that would know the
 5 answer to that question?
 6 A. I imagine there is someone that would
 7 know the answer to that question. I don't know
 8 who it would be.
 9 Q. Would it be your predecessor at
 10 Goldman Sachs?
 11 A. I don't know.
 12 Q. Are you familiar with the term "forced
 13 distribution"?
 14 A. As it relates to manager quartiling, I
 15 am.
 16 Q. Is forced distribution synonymous
 17 with, or a synonym for, quartiling?
 18 A. In the context of quartiling, forced
 19 distribution, which I think is a bit of a
 20 misnomer, refers to the guidance that is
 21 provided to managers, for example, to have
 22 10 percent -- approximately 10 percent of their
 23 employees in the bottom -- in quartile 5.
 24 Q. So in your view, does Goldman Sachs
 25 presently use a forced distribution model for

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[3] (Pages 6 to 9)

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1	Landman - Confidential	1	REDACTED FILED UNDER SEAL
2	its quartiling process?	2	
3	A. I don't believe we use the terminology	3	
4	"forced distribution." We do -- managers are	4	
5	asked to place employees in different quartile	5	
6	categories relative to their peers and are given	6	
7	guidance as to the percent of employees that	7	
8	should go into each one of those buckets.	8	
9	Q. Why does Goldman Sachs do that?	9	
10	A. The purpose of the performance	10	
11	quartile is to provide an assessment of an	11	
12	employee's performance, potential, and	12	
13	contribution.	13	
14	Q. But why specifically instruct managers	14	
15	to essentially distribute across the spectrum	15	
16	from the first quartile to the fifth quartile?	16	
17	A. One of the purposes of the quartiling	17	
18	process is to assess relative performance, and	18	
19	to do so we encourage managers to provide	19	
20	quartiles across a continuum on the	20	
21	distribution.	21	
22	Q. Do you know who came up with that idea	22	
23	at Goldman Sachs?	23	
24	A. This concept is not unique to -- or	24	
25	this practice is not unique to Goldman Sachs.	25	
[Page 10]		[Page 12]	
1	Landman - Confidential	1	REDACTED FILED UNDER SEAL
2	So when you say that Goldman Sachs came up with	2	
3	it, I don't know who implemented it at Goldman	3	
4	Sachs.	4	
5	Q. Do you know whether there was a study	5	
6	done that relates to the use of a forced	6	
7	distribution process for manager performance	7	
8	reviews?	8	
9	MS. BROWN: I'm going to object to the	9	
10	extent that you mischaracterized the	10	
11	testimony and that --	11	
12	MR. KLEIN: I'll withdraw and restate.	12	
13	Q. Do you know whether Goldman Sachs	13	
14	commissioned a study relating to the use of the	14	
15	quartiling process?	15	
16	A. Goldman Sachs has commissioned two	16	
17	validation studies on the criteria and	17	
18	methodologies for how we assess performance.	18	
19	Manager performance quartiling falls under the	19	
20	umbrella of how we assess performance.	20	
21	Q. So in your view, the validation	21	
22	studies from APT Metrics and PDI include this	22	
23	forced distribution construct, in addition to	23	
24	the other aspects of the performance management	24	
25	system?	25	
[Page 11]		[Page 13]	

[4] (Pages 10 to 13)

**DECLARATION OF THEODORE O. ROGERS, JR.
IN OPPOSITION TO PLAINTIFFS' MOTION FOR
CLASS CERTIFICATION**

**EXHIBIT 10A - TRANSCRIPT OF THE DEPOSITION OF DAVID LANDMAN
DATED OCTOBER 10, 2013
(PAGES 14-21)**

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	REDACTED FILED UNDER SEAL	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	<p>Landman - Confidential population of individuals that receives a quartile.</p> <p>Q. What do you mean by that?</p> <p>A. So I think one example is -- my recollection is that in recent years we have asked managers to quartile -- sorry, I'm just trying to think of a good example. I'm going to strike that and give a different example.</p> <p>The focus -- so one tweak could be the focus that we have on the exact -- or an exact adherence to the recommended distributions, which could vary year to year, without those broad categories changing.</p> <p>Q. Are you familiar generally with the inputs into the quartiling process?</p> <p>MS. BROWN: Objection to form.</p> <p>A. Could you be more specific?</p> <p>Q. So there are -- as I understand it, managers are given a list of -- we can talk about specifically with the documents, but managers are generally given a list of review criteria or criteria generally used for the quartiling process, right?</p> <p>A. Managers are given guidance as to the</p>
	[Page 23]		[Page 25]

[7] (Pages 22 to 25)

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<p>1 Landman - Confidential</p> <p>2 considerations that they should make in terms of</p> <p>3 criteria into making their quartile</p> <p>4 determinations.</p> <p>5 Q. Do you know whether those criterias</p> <p>6 have changed since the time you started at</p> <p>7 Goldman to the present?</p> <p>8 A. They, once again, have evolved in</p> <p>9 small ways, and we'd have to lay them side by</p> <p>10 side to look to the differences, but the</p> <p>11 concepts have remained similar.</p> <p>12 Q. Do you know why there was an evolution</p> <p>13 of the criteria used to -- used as far as the</p> <p>14 quartiling process?</p> <p>15 MS. BROWN: Object. That misstates</p> <p>16 the testimony.</p> <p>17 Q. You can answer.</p> <p>18 A. I'll give an example of one of the</p> <p>19 ways the criteria may have evolved. After the</p> <p>20 2010 validation study, where we made some</p> <p>21 changes to how we categorize the review</p> <p>22 criteria, we would have lined up the verbiage in</p> <p>23 the revised criteria to the verbiage in the</p> <p>24 manager performance quartiling guidance.</p> <p>25 Q. Can you generally describe the</p> <p style="text-align: right;">[Page 26]</p>	<p>1 Landman - Confidential</p> <p>2 quartile, you can answer.</p> <p>3 A. The performance review does not</p> <p>4 necessarily take into account potential and is</p> <p>5 more looking back, so there is additional</p> <p>6 factors that are involved in performance</p> <p>7 quartiling. And the 360 feedback and the</p> <p>8 manager's assessment is, once again, one of many</p> <p>9 inputs into the manager performance quartile.</p> <p>10 Q. In your view, is there some overlay</p> <p>11 between the review criteria in the 360 versus</p> <p>12 the criteria used for the quartiling process?</p> <p>13 MS. BROWN: Asked and answered.</p> <p>14 A. Yes, there is. The manager</p> <p>15 performance quartile guidance is partially based</p> <p>16 on the performance review criteria that were</p> <p>17 previously validated.</p> <p>18 Q. You just mentioned the term</p> <p>19 "potential." Do you recall that generally?</p> <p>20 A. I do.</p> <p>21 Q. What does that mean?</p> <p>22 A. That means different things in</p> <p>23 different businesses, but generally speaking,</p> <p>24 potential means potential for the individual to</p> <p>25 take on increasing responsibility or provide a</p> <p style="text-align: right;">[Page 28]</p>
<p>1 Landman - Confidential</p> <p>2 relationship between, I'll describe it as the</p> <p>3 360 review process and quartiling?</p> <p>4 A. The feedback received via the 360</p> <p>5 review process is an input for managers to</p> <p>6 consider as they make their quartile</p> <p>7 determinations.</p> <p>8 Q. You're familiar with the 360 review</p> <p>9 process whereby managers review their</p> <p>10 subordinate employees; is that right?</p> <p>11 MS. BROWN: Object. Misstates the</p> <p>12 testimony.</p> <p>13 Q. I'll withdraw and restate.</p> <p>14 In the 360 review process has a --</p> <p>15 part of that process, rather, is the manager</p> <p>16 reviews the subordinate employee, right?</p> <p>17 A. Managers do provide feedback to their</p> <p>18 employees as part of the 360 review process.</p> <p>19 Q. Would that manager feedback of a</p> <p>20 subordinate employee match the quartiling review</p> <p>21 criteria?</p> <p>22 MS. BROWN: Object to the form.</p> <p>23 Vague. Also, 360 was covered in the last</p> <p>24 deposition.</p> <p>25 To the extent this bears on manager</p> <p style="text-align: right;">[Page 27]</p>	<p>1 REDACTED FILED UNDER SEAL</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">[Page 29]</p>

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**DECLARATION OF THEODORE O. ROGERS, JR.
IN OPPOSITION TO PLAINTIFFS' MOTION FOR
CLASS CERTIFICATION**

**EXHIBIT 10A - TRANSCRIPT OF THE DEPOSITION OF DAVID LANDMAN
DATED OCTOBER 10, 2013
(PAGES 30-93)**

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<p>1 REDACTED FILED UNDER SEAL</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>[Page 94]</p>	<p>1 Landman - Confidential</p> <p>2 and HCM can advise them to help them make those</p> <p>3 considerations at the divisional HCM level.</p> <p>4 Q. Does TAG evaluate the degree to which</p> <p>5 the 360 review score agrees or disagrees with</p> <p>6 the quartiling rank?</p> <p>7 MS. BROWN: Again, if there's any</p> <p>8 privilege request that's made of you in</p> <p>9 that connection, you're not to answer about</p> <p>10 that, but otherwise you can.</p> <p>11 A. And beyond that, no, we do not.</p> <p>12 Q. So there's no similar document, like</p> <p>13 the 2011 performance quartile distributions,</p> <p>14 that would assess agreement between the 360</p> <p>15 review score and quartile?</p> <p>16 MS. BROWN: Object to the form.</p> <p>17 Mischaracterizes the evidence.</p> <p>18 A. Beyond anything that is privileged,</p> <p>19 TAG has not produced, as far as I'm aware, any</p> <p>20 document comparing the manager -- or 360 scores</p> <p>21 to the manager performance quartile.</p> <p>22 Q. Next bullet point is, "Assess</p> <p>23 potential for future contribution to the firm by</p> <p>24 considering factors such as skill set,</p> <p>25 managerial capacity, and breadth of ability."</p> <p>[Page 96]</p>
<p>1 Landman - Confidential</p> <p>2 score is -- is reviewed by the company?</p> <p>3 MS. BROWN: I object to the form.</p> <p>4 Misstates the testimony.</p> <p>5 A. So, right, I do not speak to a</p> <p>6 specific score that's provided, but managers,</p> <p>7 once again, should take into consideration the</p> <p>8 360 feedback, and of course their summary of</p> <p>9 that feedback, as they make their quartile</p> <p>10 determinations.</p> <p>11 Q. Is that interaction or process</p> <p>12 assessed by Goldman Sachs in any way?</p> <p>13 MS. BROWN: I object to the form.</p> <p>14 Vague.</p> <p>15 A. Is what process?</p> <p>16 Q. So this review of the 360 score in</p> <p>17 relation to the quartiling process, is there any</p> <p>18 assessment of whether or not the manager is</p> <p>19 fairly evaluating the employee in relation to</p> <p>20 their 360 score?</p> <p>21 MS. BROWN: Object to the form.</p> <p>22 Vague. And it's been asked and answered</p> <p>23 numerous times.</p> <p>24 A. Once again, we ask managers to look at</p> <p>25 the 360 degree feedback and their assessment,</p> <p>[Page 95]</p>	<p>1 Landman - Confidential</p> <p>2 Do you see that reference?</p> <p>3 A. I do.</p> <p>4 Q. And is that -- are those terms the</p> <p>5 product of a validation study, or how are they</p> <p>6 determined?</p> <p>7 MS. BROWN: This has been asked and</p> <p>8 answered.</p> <p>9 A. These terms, broadly speaking, are</p> <p>10 aligned to, as you described it, the KSAs that</p> <p>11 we previously validated as important to our</p> <p>12 employees in running our business.</p> <p>13 Q. Okay. Next bullet point, "Historical</p> <p>14 performance and work experience in the</p> <p>15 individual's current role should also inform</p> <p>16 your decision and help you to determine whether</p> <p>17 this year is part of a long-term pattern of</p> <p>18 strength or weakness."</p> <p>19 You see that reference?</p> <p>20 A. I do.</p> <p>21 Q. What does that mean?</p> <p>22 A. It means that a manager should</p> <p>23 consider historical performance and work</p> <p>24 experience in the individual's current role as</p> <p>25 one of the inputs to inform their decision to</p> <p>[Page 97]</p>

[25] (Pages 94 to 97)

**DECLARATION OF THEODORE O. ROGERS, JR.
IN OPPOSITION TO PLAINTIFFS' MOTION FOR
CLASS CERTIFICATION**

**EXHIBIT 10A - TRANSCRIPT OF THE DEPOSITION OF DAVID LANDMAN
DATED OCTOBER 10, 2013
(PAGES 98-149)**

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<p>1 REDACTED FILED UNDER SEAL</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">[Page 150]</p>	<p>1 Landman - Confidential</p> <p>2 details on this population including the process</p> <p>3 for the divisional LOA review is attached."</p> <p>4 Do you know what the reference is to?</p> <p>5 A. LOA in this instance is referring to</p> <p>6 somebody who has been on a leave of absence.</p> <p>7 Q. And are there rules relating to when</p> <p>8 an employee on that leave of absence would be</p> <p>9 excluded from quartile -- from the quartiling</p> <p>10 process?</p> <p>11 A. The rules regarding the populations to</p> <p>12 be included and excluded from receiving a</p> <p>13 quartile and included or excluded from being</p> <p>14 part of the so-called quartile distribution are</p> <p>15 contained in the various guidelines we've been</p> <p>16 going through, and would have been attached to</p> <p>17 this e-mail.</p> <p>18 Q. Go back to the second bullet point,</p> <p>19 the ER\ELG quartile change reference, does that</p> <p>20 signify that ER\ELG can, in fact, require</p> <p>21 quartile changes?</p> <p>22 MS. BROWN: You're not to describe the</p> <p>23 process.</p> <p>24 If you know the answer to whether</p> <p>25 those groups require changes, you can</p> <p style="text-align: right;">[Page 152]</p>
<p>1 Landman - Confidential</p> <p>2 Do you see that?</p> <p>3 A. I do see that.</p> <p>4 Q. What does that refer to?</p> <p>5 MS. BROWN: Again, if -- you're not to</p> <p>6 discuss any privileged project or advice.</p> <p>7 If you know about business decisions</p> <p>8 that are made after that advice has been</p> <p>9 given, you can testify to those.</p> <p>10 A. So this statement should be brought</p> <p>11 into business -- business -- business required</p> <p>12 or business made quartile changes will require</p> <p>13 replacements, which means the business wants to</p> <p>14 change somebody from a Q 4 to a Q 5, they should</p> <p>15 change somebody else from a Q 5 to a Q 4.</p> <p>16 Q. Is there a log of changes that --</p> <p>17 where somebody is removed from Q 5 or some other</p> <p>18 place within the quartile process?</p> <p>19 MS. BROWN: This has been asked and</p> <p>20 answered several times.</p> <p>21 A. And once again, that information is</p> <p>22 contained in CRS.</p> <p>23 Q. Next bullet point is, "A small</p> <p>24 population of LOAs will be excluded from the</p> <p>25 quartile distribution this year. Further</p> <p style="text-align: right;">[Page 151]</p>	<p>1 Landman - Confidential</p> <p>2 answer.</p> <p>3 A. My understanding is that these groups</p> <p>4 provide advice to managers, ultimately which</p> <p>5 managers decide -- make their own decisions</p> <p>6 based on that advice.</p> <p>7 Q. You would agree, however, that the</p> <p>8 phrasing here is inconsistent with your answer?</p> <p>9 A. That's -- I do agree that the phrasing</p> <p>10 is inconsistent, I think this is a -- an</p> <p>11 overstatement.</p> <p>12 Q. Next box is, "This year a comparative</p> <p>13 analysis of the manager quartile assignments</p> <p>14 with both the risk management and reputational</p> <p>15 judgment and compliance review scores will be</p> <p>16 conducted."</p> <p>17 What does that mean?</p> <p>18 MS. PALUMBO: Adam, can you go off the</p> <p>19 record for a minute here?</p> <p>20 MR. KLEIN: Can we have an answer to</p> <p>21 this question?</p> <p>22 MS. PALUMBO: There's an issue about</p> <p>23 privilege. That's why I don't think there</p> <p>24 can be an answer.</p> <p>25 MR. KLEIN: Okay.</p> <p style="text-align: right;">[Page 153]</p>

[39] (Pages 150 to 153)

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1	Landman - Confidential	1	REDACTED FILED UNDER SEAL
2	(A recess was taken.)	2	
3	MR. KLEIN: Is there an objection?	3	
4	MS. BROWN: Yes, so there is an	4	
5	objection and instruction not to answer	5	
6	because the analysis of quartile	6	
7	assignments with risk management and	7	
8	reputational judgment and compliance review	8	
9	scores were conducted at the request and at	9	
10	the direction of legal counsel for Goldman	10	
11	Sachs, not necessarily just the employment	11	
12	law counsel but counsel more generally for	12	
13	the firm. So he's not to answer about	13	
14	them.	14	
15	Q. Well, can you generally describe what	15	
16	the subject is, without revealing attorney	16	
17	communications or work product?	17	
18	MS. BROWN: What do you mean by "the	18	
19	subject"?	19	
20	MR. KLEIN: I would like to know what	20	
21	risk management and reputational judgment	21	
22	means.	22	
23	MS. BROWN: Okay.	23	
24	A. So this is reference to the risk	24	
25	management and reputational judgment category	25	
	[Page 154]		[Page 156]
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[40] (Pages 154 to 157)

**DECLARATION OF THEODORE O. ROGERS, JR.
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**EXHIBIT 10A - TRANSCRIPT OF THE DEPOSITION OF DAVID LANDMAN
DATED OCTOBER 10, 2013
(PAGES 158-191)**

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